

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ERIC SAUER  
4409 N. County Road H  
Janesville, WI 53548;

Plaintiff,

**COMPLAINT**

DEAN HEALTH PLAN, INCORPORATED  
1277 Deming Way  
Madison, WI 53717;

Case No. 3:20-cv-53

and

ERIE INSURANCE COMPANY  
100 Erie Insurance Place  
Erie, PA 16530;

Involuntary Plaintiffs,

vs.

UNITED STATES OF AMERICA  
c/o U.S. Department of Justice  
Office of the United States Attorney  
Western District of Wisconsin, Suite 303  
City Station  
660 W. Washington Avenue  
Madison, WI 53703;

and

Brian J. Buenzow  
1071 Laramie Lane  
Janesville, WI 53546,

Defendants.

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Plaintiff above named, by and through his attorneys, Nowlan & Mouat LLP, by Attorney Steven T. Caya, alleges as follows:

## **NATURE OF PROCEEDINGS**

1. This is a civil action filed pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671 et. seq. to recover damages arising out of the injuries suffered by Eric Sauer. Mr. Sauer was injured in a motor vehicle collision that occurred on February 8, 2017. Mr. Sauer's injury was as a result of the negligence of Brian J. Buenzow who at the time of the collision was operating a motor vehicle owned by the United States of America while acting within the scope and course of his employment with the United States Department of Agriculture, Natural Resources Conservation Services. Therefore, pursuant to the Federal Tort Claims Act, the claim is asserted against the United States of America.

## **PARTIES**

2. Plaintiff, Eric Sauer, is an adult citizen of the State of Wisconsin, whose permanent residence is located in the Western District of Wisconsin at 4409 North County Road H in the City of Janesville, County of Rock, State of Wisconsin.

3. Involuntary Plaintiff, Dean Health Plan, Inc. (hereinafter "Dean"), is a domestic insurance corporation organized and existing under the laws of the State of Wisconsin whose principal place of business is located at 1277 Deming Way, Madison, Wisconsin 53717, and whose registered agent for service of process is CT Corporation System, 301 South Bedford Street Suite 1, Madison, Wisconsin 53703. Upon information and belief at all times material, Dean had in full force and effect a policy that provided medical insurance coverage to Eric Sauer; Dean has paid medical expenses on behalf of Eric Sauer as a result of injuries sustained in the subject motor vehicle accident, and, as a result, Dean may claim a right of reimbursement and/or subrogation in this matter; therefore, Dean is a necessary and proper party to this action.

4. Involuntary Plaintiff, Erie Insurance Company (hereinafter "Erie"), is a foreign insurance corporation, licensed to do business in the State of Wisconsin and elsewhere whose principal place of business is located at 100 Erie Insurance Place, Erie, Pennsylvania 16530, and whose registered agent for service of process is Kemmy Stickney, 20300 Watertown Boulevard Suite 230, Brookfield, Wisconsin 53045. Upon information and belief, at all times material, Erie had in full force and effect a policy of insurance providing coverage to Eric Sauer and may have

paid medical expenses on behalf of Eric Sauer; as a result, Erie may claim a right of reimbursement and/or subrogation in this matter; therefore, Erie is a necessary and proper party to this action.

5. United States of America is a party defendant since at the time of the subject accident, Brian J. Buenzow, was acting within the scope and course of his employment with the United States Department of Agriculture, Natural Resources Conservation Services.

6. Defendant, Brian J. Buenzow, is an adult citizen of the State of Wisconsin who resides at 1071 Laramie Lane, Janesville, Wisconsin.

### **JURISDICTION AND VENUE**

7. This action arises under the Federal Tort Claims Act, 28 U.S.C. §2671 et. seq. This court has jurisdiction over the claims pursuant to 28 U.S.C. §1346(b)(1) of the United States Code.

8. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b)(2) as the event giving rise to this claim occurred within the Western District of Wisconsin.

### **FACTS**

9. On or about February 8, 2017, Eric Sauer was operating his motor vehicle southbound on County Trunk Highway A, in the Town of Center, County of Rock, State of Wisconsin. On that same date, Brian J. Buenzow, while in the scope and course of his employment with the United States Department of Agriculture, was operating a motor vehicle owned by the United States Department of Agriculture, Natural Resources Conservation Services, Northbound on County Trunk Highway A, in the Town of Center, County of Rock, State of Wisconsin.

10. Just prior to the collision with the vehicle operated by Eric Sauer, the vehicle driven by Brian J. Buenzow crossed the centerline into the southbound lane of County Trunk Highway A and into the path of travel of Eric Sauer. Eric Sauer attempted to avoid colliding with

the vehicle driven by Brian J. Buenzow but in doing so entered the left shoulder of County Trunk Highway A and struck a tree.

11. At the time and place described above, and immediately prior thereto, Brian J. Buenzow was negligent in the operation of his motor vehicle in at least the following respects:

- a. By failing to yield the Right-of-Way; and
- b. By operating his motor vehicle in an inattentive manner.

12. Plaintiff timely filed an administrative claim against the United States Department of Agriculture Natural Resources Conservation Services pursuant to the Federal Tort Claims Act on January 25, 2019. On October 16<sup>th</sup>, 2019, Counsel for Eric Sauer received a letter from The United States Department of Agriculture Natural Resources Conservation Services denying the claim. Plaintiff has exhausted all available administrative remedies and has timely filed this action.

13. As a direct and proximate result of the negligence of Brian J. Buenzow, Eric Sauer has incurred medical expenses and will incur future medical expenses; Eric Sauer has incurred wage loss and may incur a future loss of earning capacity; Eric Sauer has endured pain and suffering and will experience pain and suffering into the future.

WHEREFORE, Plaintiff demands judgment as follows:

- A. Judgment in favor of Plaintiff and against Defendants in an amount which will fully and fairly compensate Plaintiff;
- B. An award of compensatory damages;
- C. A determination as to the rights of the Involuntary Plaintiffs, if any; and
- D. Any other relief the Court deems just and equitable.

DATED this 17<sup>th</sup> day of January, 2020.

By: /s/ *Electronically signed by Steven T. Caya*  
Steven T. Caya, State Bar No. 1019596

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